

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re)
)
Report to Congress Regarding the) IB Docket No. 06-61
ORBIT Act)

REPLY COMMENTS OF INTELSAT

Intelsat LLC and its affiliated entities (collectively, “Intelsat”) hereby respond to comments filed by the International Telecommunications Satellite Organization (“ITSO”)¹ at the Federal Communications Commission (“FCC” or “Commission”) in the above-referenced proceeding.² ITSO, an intergovernmental organization (“IGO”), has a contract with Intelsat – the Public Services Agreement. ITSO is once again³ improperly attempting to use the FCC as a forum to lodge complaints against Intelsat that arise from this private contract between Intelsat and ITSO.

The fact is that, as ITSO notes, “the ORBIT Act ... has achieved its goal to fully privatize INTELSAT.”⁴ This privatization, in turn, has resulted in Intelsat playing an important role in the intensely competitive global market for telecommunications services, a market in which Intelsat is just one among numerous communications

¹ Comments of the International Telecommunications Satellite Organization (ITSO), IB Docket No. 06-61, Report No. SPB-215 (filed Mar. 30, 2006) (“ITSO Comments”).

² *International Bureau Information: Report to Congress Regarding the ORBIT Act*, DA 06-559, Report No. SPB-215 (Mar. 9, 2006) (Public Notice) (“2006 FCC ORBIT Act Public Notice”).

³ Comments of the International Telecommunications Satellite Organization (ITSO), IB Docket No. 05-290 (filed Nov. 14, 2005); Reply Comments of the International Telecommunications Satellite Organization (ITSO), IB Docket No. 05-290 (filed Dec. 6, 2005).

⁴ ITSO Comments at 1.

providers. ITSO is essentially arguing that it does not like a privatized Intelsat and that it prefers the organizational structure and operation of the former IGO. Such arguments are not only unpersuasive and irrelevant to the issues at hand, but they are antithetical to the very purpose of the ORBIT Act, which is to “fully privatiz[e]” intergovernmental satellite organizations in order “to promote a fully competitive global market.”⁵

ITSO makes essentially four arguments. First, it expresses displeasure with the present ownership of Intelsat, the composition of Intelsat’s board of directors, and even the form of Intelsat’s corporate by-laws.⁶ As Intelsat has explained previously,⁷ the ability to make internal corporate decisions free of government interference, particularly decisions that further the purposes of the ORBIT Act, is a basic prerogative of the shareholders of any “privatized” company.⁸ Indeed, the actions that ITSO critiques merely serve to confirm that the privatization objectives of the ORBIT Act have been fully achieved by Intelsat.

Second, ITSO’s comments about pricing for LCO customers are totally misplaced. Intelsat contractually agreed to cap prices -- *i.e.*, impose no price increases for LCO customers -- and also agreed to price decreases in certain circumstances. Intelsat has abided by those contracts, and if ITSO or any customer believes otherwise,

⁵ 47 U.S.C. § 761 Note.

⁶ ITSO Comments at 1-3.

⁷ *See, e.g.*, Joint Response of Intelsat and PanAmSat, IB Docket No. 05-290 at 13 (filed Nov. 29, 2005).

⁸ It is well established that the FCC does not regulate its licensees’ internal corporate decisions. *See, e.g. Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, Report and Order, 6 FCC Rcd 7571, 7624 (1991) (finding that structural separation was an “unnecessary government intrusion” into internal business judgments regarding corporate organization).

there are contractual remedies specified in the agreements. In fact, neither ITSO nor any Intelsat customer has yet to invoke any such remedy or otherwise allege formally (as opposed to mere unsubstantiated assertion) any breach by Intelsat of any LCO pricing protection provision of any contract.

Third, ITSO makes a number of inaccurate assertions about the coverage, connectivity and health of Intelsat's satellite fleet.⁹ Contrary to ITSO's assertions, numerous Intelsat satellites, including some of those in the recent Intelsat 9 series, provide Ku-band coverage of Africa. Intelsat also maintains sufficient connectivity in the Asia-Pacific region to meet customer demand and its Public Services Agreement obligations. The PanAmSat satellite fleet will provide Intelsat with additional coverage and capacity for meeting the needs of customers in these regions.¹⁰

ITSO's concern that 16 Intelsat satellites will reach their end-of-life by 2010 is also misplaced. Intelsat expects these satellites, like prior satellites, to remain operational several years beyond their end-of-design life. Like any other commercial operator, Intelsat bases its satellite deployment and replacement plans on the fuel and health status of in-orbit satellites as well as on expected customer demand. This commercially-focused decision-making process is fully consistent with the privatization and competition objectives of the ORBIT Act.

⁹ ITSO Comments at 3-4.

¹⁰ Constellation, LLC, Carlyle PanAmSat I, LLC, Carlyle PanAmSat II, LLC, PEP PAS, LLC, and PEOP PAS, LLC, Transferors, and Intelsat Holdings, Ltd., Transferee, Consolidated Application for Authority to Transfer Control of PanAmSat Licensee Corp. and PanAmSat H-2 Licensee Corp., IB Docket No. 05-290, File Nos. SAT-T/C-20050930-00193, SAT-T/C-20050930-00194, SAT-T/C-20050930-01356, SAT-T/C-20050930-01357, SAT-T/C-20050930-01371, 19-20 (filed Sept. 30, 2005).

Finally, ITSO seeks to use this proceeding to persuade the FCC to condition Intelsat's acquisition of PanAmSat on the merged company's guaranteed performance of contractual public service obligations in the event of a hypothetical bankruptcy.¹¹ As noted by ITSO itself,¹² however, Intelsat's public service obligations were implemented via a private commercial agreement between ITSO and Intelsat, which contains its own enforcement regime. The ORBIT Act is silent as to public service obligations, and it neither contemplates nor endorses a regulatory role for ITSO over a privatized Intelsat.

ITSO's call for extraordinary regulation of Intelsat would re-create the very problem that the ORBIT Act was designed to solve. Instead of allowing Intelsat to operate like any other private entity in the "fully competitive" market called for by the ORBIT Act, ITSO wants to use the FCC's merger review process to subject Intelsat to unique and anticompetitive regulation. ITSO's proposed approach, which would create an uneven playing field that eventually would stimulate calls for additional regulatory intervention, should be rejected.¹³

¹¹ *Id* at 4-6; *see* Comments of the International Telecommunications Satellite Organization (ITSO), IB Docket No. 05-290 at 2 (filed Nov. 14, 2005).

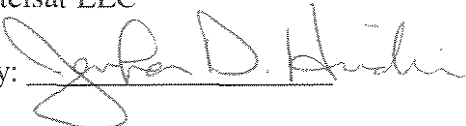
¹² ITSO Comments at 5.

¹³ As Intelsat previously explained in the Intelsat-PanAmSat merger proceeding, ITSO's request is also speculative, premature, would require the FCC to improperly inject itself as enforcer into a private contractual agreement, and would be inconsistent with the agency's prior decision to stop evaluating the financial qualifications of satellite applicants. *See* Joint Response of Intelsat and PanAmSat, IB Docket No. 05-290 at 9-14 (filed Nov. 29, 2005).

As discussed in its initial comments, Intelsat's completed privatization continues to have a positive impact on the global marketplace for communications services. The FCC should reject actions proposed by ITSO that could jeopardize this fulfillment of the objectives of the ORBIT Act.

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CERTIFICATE OF SERVICE

I, Kim Riddick, do hereby certify that on April 13, 2006, I caused copies of the foregoing REPLY COMMENTS OF INTELSAT to be served on the following parties by U.S. first class mail, postage pre-paid:

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